

ASSEMBLY BILL

No. 2308

Introduced by Assembly Member Plescia

February 22, 2006

An act to amend Section 2472 of, and to repeal Section 4190 of, the Business and Professions Code, and to amend Sections 1201, 1204, 1206, 1214.1, 1242, and 1248.1 of, to add Sections 1200.2 and 1204.2 to, and to repeal Section 1233 of, the Health and Safety Code, relating to health clinics.

LEGISLATIVE COUNSEL'S DIGEST

AB 2308, as introduced, Plescia. Ambulatory surgical centers: licensure.

Existing law provides for the licensure and regulation of health facilities and clinics, including specialty clinics, by the State Department of Health Services. Existing law defines a specialty clinic to include a surgical clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A violation of these provisions is a crime.

This bill would repeal the definition of a surgical clinic for purposes of various licensure and regulatory requirements, would make various conforming changes, and would require the licensure of ambulatory surgical centers, as specified. The bill would require a licensed ambulatory surgical center to meet specified requirements. By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2472 of the Business and Professions
2 Code is amended to read:

3 2472. (a) The certificate to practice podiatric medicine
4 authorizes the holder to practice podiatric medicine.

5 (b) As used in this chapter, “podiatric medicine” means the
6 diagnosis, medical, surgical, mechanical, manipulative, and
7 electrical treatment of the human foot, including the ankle and
8 tendons that insert into the foot and the nonsurgical treatment of
9 the muscles and tendons of the leg governing the functions of the
10 foot.

11 (c) A doctor of podiatric medicine may not administer an
12 anesthetic other than local. If an anesthetic other than local is
13 required for any procedure, the anesthetic shall be administered
14 by another licensed health care practitioner who is authorized to
15 administer the required anesthetic within the scope of his or her
16 practice.

17 (d) (1) A doctor of podiatric medicine who is ankle certified
18 by the board on and after January 1, 1984, may do the following:

19 (A) Perform surgical treatment of the ankle and tendons at the
20 level of the ankle pursuant to subdivision (e).

21 (B) Perform services under the direct supervision of a
22 physician and surgeon, as an assistant at surgery, in surgical
23 procedures that are otherwise beyond the scope of practice of a
24 doctor of podiatric medicine.

25 (C) Perform a partial amputation of the foot no further
26 proximal than the Chopart’s joint.

27 (2) Nothing in this subdivision shall be construed to permit a
28 doctor of podiatric medicine to function as a primary surgeon for
29 any procedure beyond his or her scope of practice.

30 (e) A doctor of podiatric medicine may perform surgical
31 treatment of the ankle and tendons at the level of the ankle only
32 in the following locations:

1 (1) A licensed general acute care hospital, as defined in
2 Section 1250 of the Health and Safety Code.

3 ~~(2) A licensed surgical clinic, as defined in Section 1204 of the~~
4 ~~Health and Safety Code, if the doctor of podiatric medicine has~~
5 ~~surgical privileges, including the privilege to perform surgery on~~
6 ~~the ankle, in a general acute care hospital described in paragraph~~
7 ~~(1) and meets all the protocols of the surgical clinic.~~

8 ~~(3) An ambulatory surgical center that is certified to~~
9 ~~participate in the Medicare Program under Title XVIII (42~~
10 ~~U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the~~
11 ~~doctor of podiatric medicine has surgical privileges, including the~~
12 ~~privilege to perform surgery on the ankle, in a general acute care~~
13 ~~hospital described in paragraph (1) and meets all the protocols of~~
14 ~~the surgical center.~~

15 ~~(4)~~

16 (3) A freestanding physical plant housing outpatient services
17 of a licensed general acute care hospital, as defined in Section
18 1250 of the Health and Safety Code, if the doctor of podiatric
19 medicine has surgical privileges, including the privilege to
20 perform surgery on the ankle, in a general acute care hospital
21 described in paragraph (1). For purposes of this section, a
22 “freestanding physical plant” means any building that is not
23 physically attached to a building where inpatient services are
24 provided.

25 ~~(5)~~

26 (4) An outpatient setting accredited pursuant to subdivision (g)
27 of Section 1248.1 of the Health and Safety Code.

28 (f) A doctor of podiatric medicine shall not perform an
29 admitting history and physical examination of a patient in an
30 acute care hospital where doing so would violate the regulations
31 governing the Medicare program.

32 (g) A doctor of podiatric medicine licensed under this chapter
33 is a licentiate for purposes of paragraph (2) of subdivision (a) of
34 Section 805, and thus is a health care practitioner subject to the
35 provisions of Section 2290.5 pursuant to subdivision (b) of that
36 section.

37 SEC. 2. Section 4190 of the Business and Professions Code is
38 repealed.

39 ~~4190. (a) Notwithstanding any provision of this chapter, a~~
40 ~~surgical clinic, as defined in paragraph (1) of subdivision (b) of~~

~~Section 1204 of the Health and Safety Code may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the clinic, as provided in subdivision (b). The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of seven years for inspection by all properly authorized personnel.~~

~~(b) The drug distribution service of a surgical clinic shall be limited to the use of drugs for administration to the patients of the surgical clinic and to the dispensing of drugs for the control of pain and nausea for patients of the clinic. Drugs shall not be dispensed in an amount greater than that required to meet the patient's needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.~~

~~(c) No surgical clinic shall operate without a license issued by the board nor shall it be entitled to the benefits of this section until it has obtained a license from the board. Each license shall be issued to a specific clinic and for a specific location.~~

SEC. 3. Section 1200.2 is added to the Health and Safety Code, to read:

1200.2. (a) As used in this chapter, "clinic" also means an ambulatory surgical center that is not part of a hospital and which, pursuant to Section 1204.2, primarily provides surgical services that do not exceed an average of four hours of total operating time to patients who do not require overnight hospitalization or who do not pose a significant safety risk according to classifications determined by the American Society of Anesthesiologists and, beginning at a time of postoperative care, remain less than 24 hours.

(b) An ambulatory surgical center does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians and surgeons, podiatrists, or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians and surgeons, podiatrists, or dentists may, at their option, apply for licensure.

1 SEC. 4. Section 1201 of the Health and Safety Code is
2 amended to read:

3 1201. "License" means a basic permit to operate a clinic. A
4 license may only be granted to a clinic of a type enumerated in
5 Section 1204 ~~or~~, 1204.1, *or* 1204.2, and the license shall not be
6 transferable. However, the issuance of a license upon a change of
7 ownership shall not of itself constitute a project within the
8 meaning of Section 127170.

9 SEC. 5. Section 1204 of the Health and Safety Code is
10 amended to read:

11 1204. Clinics eligible for licensure pursuant to this chapter
12 are primary care clinics ~~and~~, specialty clinics, *and ambulatory*
13 *surgical centers*.

14 (a) (1) Only the following defined classes of primary care
15 clinics shall be eligible for licensure:

16 (A) A "community clinic" means a clinic operated by a
17 tax-exempt nonprofit corporation that is supported and
18 maintained in whole or in part by donations, bequests, gifts,
19 grants, government funds or contributions, that may be in the
20 form of money, goods, or services. In a community clinic, any
21 charges to the patient shall be based on the patient's ability to
22 pay, utilizing a sliding fee scale. No corporation other than a
23 nonprofit corporation, exempt from federal income taxation
24 under paragraph (3) of subsection (c) of Section 501 of the
25 Internal Revenue Code of 1954 as amended, or a statutory
26 successor thereof, shall operate a community clinic; provided,
27 that the licensee of any community clinic so licensed on the
28 effective date of this section shall not be required to obtain
29 tax-exempt status under either federal or state law in order to be
30 eligible for, or as a condition of, renewal of its license. No
31 natural person or persons shall operate a community clinic.

32 (B) A "free clinic" means a clinic operated by a tax-exempt,
33 nonprofit corporation supported in whole or in part by voluntary
34 donations, bequests, gifts, grants, government funds or
35 contributions, that may be in the form of money, goods, or
36 services. In a free clinic there shall be no charges directly to the
37 patient for services rendered or for drugs, medicines, appliances,
38 or apparatuses furnished. No corporation other than a nonprofit
39 corporation exempt from federal income taxation under
40 paragraph (3) of subsection (c) of Section 501 of the Internal

1 Revenue Code of 1954 as amended, or a statutory successor
2 thereof, shall operate a free clinic; provided, that the licensee of
3 any free clinic so licensed on the effective date of this section
4 shall not be required to obtain tax-exempt status under either
5 federal or state law in order to be eligible for, or as a condition
6 of, renewal of its license. No natural person or persons shall
7 operate a free clinic.

8 (2) Nothing in this subdivision shall prohibit a community
9 clinic or a free clinic from providing services to patients whose
10 services are reimbursed by third-party payers, or from entering
11 into managed care contracts for services provided to private or
12 public health plan subscribers, as long as the clinic meets the
13 requirements identified in subparagraphs (A) and (B). For
14 purposes of this subdivision, any payments made to a community
15 clinic by a third-party payer, including, but not limited to, a
16 health care service plan, shall not constitute a charge to the
17 patient. This paragraph is a clarification of existing law.

18 (b) The following types of specialty clinics shall be eligible for
19 licensure as specialty clinics pursuant to this chapter:

20 ~~(1) A “surgical clinic” means a clinic that is not part of a~~
21 ~~hospital and that provides ambulatory surgical care for patients~~
22 ~~who remain less than 24 hours. A surgical clinic does not include~~
23 ~~any place or establishment owned or leased and operated as a~~
24 ~~clinic or office by one or more physicians or dentists in~~
25 ~~individual or group practice, regardless of the name used publicly~~
26 ~~to identify the place or establishment, provided, however, that~~
27 ~~physicians or dentists may, at their option, apply for licensure.~~

28 ~~(2)~~

29 (1) A “chronic dialysis clinic” means a clinic that provides less
30 than 24-hour care for the treatment of patients with end-stage
31 renal disease, including renal dialysis services.

32 ~~(3)~~

33 (2) A “rehabilitation clinic” means a clinic that, in addition to
34 providing medical services directly, also provides physical
35 rehabilitation services for patients who remain less than 24 hours.
36 Rehabilitation clinics shall provide at least two of the following
37 rehabilitation services: physical therapy, occupational therapy,
38 social, speech pathology, and audiology services. A rehabilitation
39 clinic does not include the offices of a private physician in
40 individual or group practice.

1 ~~(4)~~

2 (3) An “alternative birth center” means a clinic that is not part
3 of a hospital and that provides comprehensive perinatal services
4 and delivery care to pregnant women who remain less than 24
5 hours at the facility.

6 SEC. 6. Section 1204.2 is added to the Health and Safety
7 Code, to read:

8 1204.2. (a) Notwithstanding Section 1248, in addition to the
9 primary care clinics and specialty clinics specified in Section
10 1204, clinics eligible for licensure pursuant to this chapter
11 include ambulatory surgical centers. Nothing in this chapter shall
12 prohibit an ambulatory surgical center from referring a
13 nonemergency patient to a lower classification facility.

14 (b) Failure to comply with this section may be grounds for
15 denial, revocation, or suspension of the license by the
16 department.

17 (c) The department may accept accreditation by an
18 accreditation agency, as defined in subdivision (d) of Section
19 1248, as evidence that an ambulatory surgical center
20 demonstrates compliance with, or meets the initial licensing
21 requirements set forth in, this chapter.

22 (d) The department may contract for outside personnel to
23 perform inspections of ambulatory surgical centers as necessary.
24 The department, when feasible, shall contract with a nonprofit,
25 professional organizations that is approved as an accreditation
26 agency, as defined in subdivision (d) of Section 1248, and has
27 demonstrated the ability to administer the provisions of this
28 chapter.

29 (e) The department may make inspections and investigations
30 as it deems necessary, to investigate complaints, follow up on
31 adverse survey findings, or conduct periodic validation surveys.

32 (f) An ambulatory surgical center that is licensed as a clinic
33 pursuant to this section shall meet all of the following
34 requirements:

35 (1) The governing authority shall consist of one or more
36 persons responsible for the organization and administration of the
37 ambulatory surgical center. The governing authority shall do all
38 of the following:

1 (A) Adopt policies and procedures for the operation of the
2 ambulatory surgical center to ensure compliance with state laws,
3 regulations, and local ordinances.

4 (B) Adopt the medical staff by laws.

5 (C) Grant or deny clinical privileges of physicians and
6 surgeons and other members of the medical staff and delineate, in
7 writing, the clinical privileges of each medical staff member.

8 (D) Adopt a quality management plan.

9 (E) Appoint an administrator who shall have authority and
10 responsibility to manage the center.

11 (2) The administrator shall be responsible to the governing
12 authority and act as a liaison between the governing authority,
13 medical staff, and facility staff. In addition, the administrator
14 shall be responsible for all of the following:

15 (A) Developing and implementing written administrative
16 policies and procedures governing all of the following:

17 (i) Personnel employment, orientation, in-service, staffing, and
18 recordkeeping.

19 (ii) Patient admissions, rights and responsibilities, grievances,
20 medical treatment, and recordkeeping.

21 (iii) Advance directives, a term which means a living will,
22 prehospital medical care directive, or health care power of
23 attorney.

24 (iv) Medications procurement and dispensing.

25 (v) Contract services.

26 (vi) Infection control, housekeeping, and maintenance.

27 (vii) Quality management and recordkeeping.

28 (viii) Emergency treatment and disaster plan.

29 (ix) Equipment inspection.

30 (B) Ensuring that all the policies and procedures are available
31 to all employees in the facility.

32 (C) Developing and implementing a quality management plan.
33 The purpose of the quality management plan is to monitor and
34 evaluate the provision of all aspects of patient care, including
35 physicians and surgeons and contracted services. The quality
36 management plan shall be in writing and describe the objectives,
37 organization, scope, and process for improving quality of care,
38 which shall include the monitoring activities.

39 (D) Employing personnel to provide outpatient surgical
40 services. "Outpatient surgical services" means those anesthesia

1 and surgical services provided to a patient in an ambulatory
2 surgical center that do not require planned inpatient care
3 following a surgical procedure.

4 (E) Ensuring that a pharmacy maintained by the center shall be
5 registered as required by law.

6 (F) Ensuring that pathology services are provided by a
7 laboratory licensed, or exempt from licensure, as required by
8 law.

9 (G) Designating, in writing, an individual to be on duty, be in
10 charge, and have access to all areas related to patient care and
11 operation of the physical plant when the administrator is not
12 present.

13 (H) Posting a list of patient rights in a conspicuous area and
14 making a reasonable effort to ensure that personnel apprise each
15 patient or patient's representative of those rights and making a
16 reasonable effort to ensure that language barriers or physical
17 handicaps do not prevent each patient or patient's representative
18 from becoming aware of those rights. "Patient's representative"
19 means either a person acting on behalf of the patient with written
20 consent of the patient or the patient's parent, legal guardian, or
21 surrogate.

22 (I) Ensuring that personnel are employed to meet the needs of
23 patients and that job descriptions that define qualifications,
24 duties, and responsibilities are established for all personnel.

25 (J) Requiring personnel, prior to being employed and annually
26 thereafter, to submit either one of the following as evidence of
27 freedom from pulmonary tuberculosis:

28 (i) A report of a negative Mantoux skin test taken within six
29 months of submitting the report.

30 (ii) A written statement from a physician stating that, upon an
31 evaluation of a positive Mantoux skin test taken within six
32 months of submitting the physician's statement or a history of a
33 positive Mantoux skin test, the individual was found to be free
34 from tuberculosis.

35 (K) Providing orientation to each employee within the first
36 week of employment. Orientation shall be specific to the position
37 held by the employee.

38 (L) Employing a registered nurse as the director of nursing
39 who shall be responsible for the management and supervision of
40 nursing services, including all of the following:

- 1 (i) Developing and implementing written nursing and patient
- 2 care policies and procedures, including medications
- 3 administration, storage, and disposal.
- 4 (ii) Ensuring that the facility is staffed based on the number of
- 5 patients and their health care needs.
- 6 (iii) Participating in quality management activities.
- 7 (iv) Appointing a registered nurse, in writing, to act in the
- 8 absence of the director of nursing.
- 9 (M) Maintaining a record of quality management activities and
- 10 ensuring that any conclusions and recommendations on findings
- 11 of quality management activities are reported to the governing
- 12 authority.
- 13 (N) Ensuring there is a current listing of all surgical
- 14 procedures offered by the center and maintaining a chronological
- 15 register of all surgical procedures performed.
- 16 (O) Ensuring that a roster of medical staff that have surgical or
- 17 anesthesia privileges at the center is available to the center staff,
- 18 specifying the privileges and limitations of each person on the
- 19 roster.
- 20 (P) Ensuring that a medical record is established and
- 21 maintained for each patient. Medical and facility staff shall sign
- 22 with surnames and date their entries in a patient's medical record.
- 23 Staff shall release medical record information only after
- 24 receiving the patient's or patient representative's written consent,
- 25 or as otherwise required or permitted by law. The medical record
- 26 shall contain all of the following:
- 27 (i) Name and address of patient and patient's representative.
- 28 (ii) Documentation of advance directives.
- 29 (iii) Admitting diagnosis.
- 30 (iv) Medical history and physical examination.
- 31 (v) Laboratory and radiology reports.
- 32 (vi) Consent forms.
- 33 (vii) Physician orders and notations.
- 34 (viii) Surgeon's operative report.
- 35 (ix) Anesthesia report.
- 36 (x) Nursing care notations.
- 37 (xi) Medications and treatments administered.
- 38 (xii) Written acknowledgment of receipt of discharge
- 39 instructions by the patient or patient's representative.

1 (Q) Ensuring that the medical record of discharged patient is
2 completed within 30 days of the discharge.

3 (R) Ensuring that the medical records are maintained for a
4 period of seven years. Medical records shall be retained onsite at
5 the center, or retrievable by center staff within two hours of a
6 request, for a period of one year from a patient's discharge.

7 (S) Ensuring that written infection control policies and
8 procedures are established and implemented for the surveillance,
9 control, and prevention of infection. The policies and procedures
10 shall include all of the following:

11 (i) Sterilization methods.

12 (ii) Storage, maintenance, and distribution of sterile supplies
13 and equipment.

14 (iii) Disposal of waste, including blood, body tissue, and fluid.

15 (T) Ensuring that housekeeping and maintenance services are
16 provided to maintain a safe and sanitary environment.

17 (U) Ensuring that equipment is operational, inspected, and
18 maintained in accordance with the center's policies and
19 procedures. These policies and procedures shall address all of the
20 following:

21 (i) Testing, calibrating, servicing, or repairing of equipment to
22 ensure that the equipment is free from fire and electrical hazards.

23 (ii) Maintaining records documenting service and calibration
24 information.

25 (iii) The use, maintenance, and storage of oxygen and other
26 flammable gases in accordance with applicable law.

27 (iv) The use and maintenance of electrical equipment in
28 accordance with applicable law.

29 (V) Ensuring that employees who provide direct patient care
30 shall:

31 (i) Be 18 years of age or older.

32 (ii) Be certified in cardiopulmonary resuscitation within the
33 first month of employment, and maintain current certification
34 thereafter.

35 (iii) Attend six hours of in-service education per year, which is
36 exclusive of orientation, and cardiopulmonary resuscitation and
37 which relates to the purposes and function of an ambulatory
38 surgical center.

39 (W) Ensuring that personnel records are maintained, including
40 the application for employment, verification of training,

1 certification, or licensure, initial proof of freedom from
2 tuberculosis and annual verification statement thereafter, and
3 orientation and in-service training records.

4 (X) Ensuring the development of a written disaster plan of
5 operation with procedures to be followed in the event of a fire or
6 threat to patient safety and shall ensure that an emergency
7 evacuation route is posted in every room where patients may be
8 present, except restrooms.

9 (Y) Ensuring all of the following with respect to emergency
10 preparation:

11 (i) Fire drills are conducted every three months, and all staff
12 members on duty participate.

13 (ii) Records of the drills include the date, time, and critique of
14 the drills.

15 (iii) Records of the drills are maintained for one year.

16 (3) A registered nurse shall function as a circulating nurse
17 during each surgical procedure. A registered nurse shall be
18 present in the recovery room whenever patients are in the
19 recovery room. A registered nurse shall be in the facility until all
20 patients are discharged. A registered nurse shall ensure that the
21 patient or patient's representative acknowledges, in writing, the
22 physician's written discharge instructions.

23 (4) The individual responsible for performing the operative
24 procedure shall complete an operative report and any necessary
25 discharge instructions according to medical staff bylaws and
26 ambulatory surgical center policies and procedures. The
27 individual responsible for the administration of anesthesia shall
28 complete an anesthesia report and any necessary discharge
29 instructions according to medical staff bylaws and center policies
30 and procedures.

31 (5) A licensed physician and surgeon or licensed health care
32 professional shall remain on the premises until all patients are
33 discharged from the recovery room pursuant to subdivision (b) of
34 Section 1248.15.

35 (6) If an ambulatory surgical center ceases operation, the
36 governing authority shall ensure the preservation of records and
37 notify the department, in writing, of the location of the records.

38 (7) The medical staff shall have responsibility for all of the
39 following:

1 (A) Approval of bylaws for the conduct of medical staff
2 activities.

3 (B) Conducting medical peer review and submitting
4 recommendations to the governing authority for approval.

5 (C) Establishing written policies and procedures that define
6 the extent of emergency treatment to be performed in the center,
7 including cardiopulmonary resuscitation procedures and
8 provisions for the emergency transfer of a patient.

9 (8) A medical staff physician shall admit patients to the
10 facility who do not require overnight hospitalization or who do
11 not pose a significant safety risk according to classifications
12 determined by the American Society of Anesthesiologists and,
13 beginning at a time of postoperative care, remain less than 24
14 hours and who do not, on average, require more than four hours
15 of total operating time.

16 (9) Within 30 days prior to admission, a medical staff member
17 shall complete a medical history and physical examination of the
18 patient. The individual responsible for performing the operative
19 procedure shall document the preoperative diagnosis and the
20 procedure to be performed. The nursing staff shall ensure that all
21 of the following documents are in the patient's medical record
22 prior to surgery:

23 (A) A medical history and results of a current physical
24 examination.

25 (B) A preoperative diagnosis and the results of any laboratory
26 tests or procedures relative to the surgery and the condition of the
27 patient.

28 (C) Validation of informed consent by the patient or patient's
29 representative for the surgical procedure and care of the patient.

30 (D) Physicians orders.

31 (10) Staff shall provide emergency treatment according to the
32 center's policies and procedures.

33 (11) The ambulatory surgical center shall pass an initial
34 inspection for fire safety by the fire authority having jurisdiction.

35 (12) The ambulatory surgical center shall ensure that there
36 shall be two recovery beds for each operating room, for up to
37 four operating rooms, whenever general anesthesia is
38 administered. One additional recovery bed shall be required for
39 each additional operating room.

(13) Recovery beds or gurneys shall be located in a space that provides for a minimum of 70 square feet per bed, allowing three feet or more between beds and between the sides of a bed and the wall.

(14) The ambulatory surgical center may provide recliner chairs in the recovery room area for patients who have not received general anesthesia.

(15) The surgical center shall ensure that the following shall be available in the surgical suite:

(A) Oxygen and the means of administration.

(B) Mechanical ventilatory assistance equipment, including airways.

(C) Manual breathing bag, and suction apparatus.

(D) Cardiac monitor, defibrillator, and cardiopulmonary resuscitation drugs as determined by the facility's policies and procedures.

(E) Noninvasive blood pressure monitor.

(F) Oxygen saturation monitor.

(G) Temperature monitor.

(H) End-tidal CO₂.

SEC. 7. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) ~~Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) (1) of subdivision (b) of Section 1204,~~ any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the state department from adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in

1 programs funded wholly or partially under Title XVIII or XIX of
2 the federal Social Security Act.

3 (c) Any clinic conducted, maintained, or operated by a
4 federally recognized Indian tribe or tribal organization, as
5 defined in Section 450 or 1601 of Title 25 of the United States
6 Code, that is located on land recognized as tribal land by the
7 federal government.

8 (d) Clinics conducted, operated, or maintained as outpatient
9 departments of hospitals.

10 (e) Any facility licensed as a health facility under Chapter 2
11 (commencing with Section 1250).

12 (f) Any freestanding clinical or pathological laboratory
13 licensed under Chapter 3 (commencing with Section 1200) of
14 Division 2 of the Business and Professions Code.

15 (g) A clinic operated by, or affiliated with, any institution of
16 learning that teaches a recognized healing art and is approved by
17 the state board or commission vested with responsibility for
18 regulation of the practice of that healing art.

19 (h) A clinic that is operated by a primary care community or
20 free clinic and that is operated on separate premises from the
21 licensed clinic and is only open for limited services of no more
22 than 20 hours a week. An intermittent clinic as described in this
23 subdivision shall, however, meet all other requirements of law,
24 including administrative regulations and requirements, pertaining
25 to fire and life safety.

26 (i) The offices of physicians in group practice who provide a
27 preponderance of their services to members of a comprehensive
28 group practice prepayment health care service plan subject to
29 Chapter 2.2 (commencing with Section 1340).

30 (j) Student health centers operated by public institutions of
31 higher education.

32 (k) Nonprofit speech and hearing centers, as defined in Section
33 1201.5. Any nonprofit speech and hearing clinic desiring an
34 exemption under this subdivision shall make application therefor
35 to the director, who shall grant the exemption to any facility
36 meeting the criteria of Section 1201.5. Notwithstanding the
37 licensure exemption contained in this subdivision, a nonprofit
38 speech and hearing center shall be deemed to be an organized
39 outpatient clinic for purposes of qualifying for reimbursement as
40 a rehabilitation center under the Medi-Cal Act (Chapter 7

(commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center, as defined in Section 5601.5 of the Welfare and Institutions Code.

(p) (1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfied all of the following requirements on or before January 1, 2005:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

1 (D) Received grants and contracts from the National Institutes
2 of Health.

3 (E) Held and licensed patents on medical technology.

4 (F) Received charitable contributions and bequests totaling at
5 least five million dollars (\$5,000,000).

6 (G) Provides health care services to patients only:

7 (i) In conjunction with research being conducted on
8 procedures or applications not approved or only partially
9 approved for payment (I) under the Medicare program pursuant
10 to Section 1359y(a)(1)(A) of Title 42 of the United States Code,
11 or (II) by a health care service plan registered under Chapter 2.2
12 (commencing with Section 1340), or a disability insurer
13 regulated under Chapter 1 (commencing with Section 10110) of
14 Part 2 of Division 2 of the Insurance Code; provided that services
15 may be provided by the clinic for an additional period of up to
16 three years following the approvals, but only to the extent
17 necessary to maintain clinical expertise in the procedure or
18 application for purposes of actively providing training in the
19 procedure or application for physicians and surgeons unrelated to
20 the clinic.

21 (ii) Through physicians and surgeons who, in the aggregate,
22 devote no more than 30 percent of their professional time for the
23 entity operating the clinic, on an annual basis, to direct patient
24 care activities for which charges for professional services are
25 paid.

26 (H) Makes available to the public the general results of its
27 research activities on at least an annual basis, subject to good
28 faith protection of proprietary rights in its intellectual property.

29 (I) Is a freestanding clinic, whose operations under this
30 subdivision are not conducted in conjunction with any affiliated
31 or associated health clinic or facility defined under this division,
32 except a clinic exempt from licensure under subdivision (m). For
33 purposes of this subparagraph, a freestanding clinic is defined as
34 “affiliated” only if it directly, or indirectly through one or more
35 intermediaries, controls, or is controlled by, or is under common
36 control with, a clinic or health facility defined under this
37 division, except a clinic exempt from licensure under subdivision
38 (m). For purposes of this subparagraph, a freestanding clinic is
39 defined as “associated” only if more than 20 percent of the
40 directors or trustees of the clinic are also the directors or trustees

1 of any individual clinic or health facility defined under this
2 division, except a clinic exempt from licensure under subdivision
3 (m). Any activity by a clinic under this subdivision in connection
4 with an affiliated or associated entity shall fully comply with the
5 requirements of this subdivision. This subparagraph shall not
6 apply to agreements between a clinic and any entity for purposes
7 of coordinating medical research.

8 (2) By January 1, 2007, and every five years thereafter, the
9 Legislature shall receive a report from each clinic meeting the
10 criteria of this subdivision and any other interested party
11 concerning the operation of the clinic's activities. The report
12 shall include, but not be limited to, an evaluation of how the
13 clinic impacted competition in the relevant health care market,
14 and a detailed description of the clinic's research results and the
15 level of acceptance by the payer community of the procedures
16 performed at the clinic. The report shall also include a
17 description of procedures performed both in clinics governed by
18 this subdivision and those performed in other settings. The cost
19 of preparing the reports shall be borne by the clinics that are
20 required to submit them to the Legislature pursuant to this
21 paragraph.

22 SEC. 8. Section 1214.1 of the Health and Safety Code is
23 amended to read:

24 1214.1. Notwithstanding the provisions of Section 1214, each
25 application for a surgical clinic or a chronic dialysis clinic under
26 this chapter for an initial license, renewal license, license upon
27 change of ownership, or special permit shall be accompanied by
28 an annual fee of three hundred dollars (\$300) plus an amount
29 equal to 0.0003 times the clinic's operating cost for the last
30 completed fiscal year.

31 SEC. 9. Section 1233 of the Health and Safety Code is
32 repealed.

33 ~~1233. A surgical clinic may restrict use of its facilities to~~
34 ~~members of the medical staff of the surgical clinic and other~~
35 ~~physicians and surgeons approved by the medical staff to practice~~
36 ~~at the clinic.~~

37 SEC. 10. Section 1242 of the Health and Safety Code is
38 amended to read:

39 1242. The director may temporarily suspend any license
40 issued to a specialty clinic or special permit prior to any hearing,

1 when in his opinion such action is necessary to protect the public
2 welfare. The director shall notify the licensee or holder of a
3 special permit of the temporary suspension and the effective date
4 thereof, and at the same time shall serve such provider with an
5 accusation. Upon receipt of a notice of defense by the licensee or
6 holder of a special permit, the director shall set the matter for
7 hearing within 30 days after receipt of such notice. The
8 temporary suspension shall remain in effect until ~~such~~ *the* time as
9 *when* the hearing is completed and the director has made a final
10 determination on the merits; provided, however, that the
11 temporary suspension shall be deemed vacated if the director
12 fails to make a final determination on the merits within 60 days
13 after the original hearing has been completed.

14 If the provisions of this chapter or the rules or regulations
15 promulgated by the director are violated by a licensed ~~surgical~~
16 ~~clinic~~ or chronic dialysis clinic or holder of a special permit
17 which is a group, corporation, or other association, the director
18 may suspend the license or special permit of ~~such~~ *the*
19 organization or may suspend the license or special permit as to
20 any individual person within ~~such~~ *the* organization who is
21 responsible for ~~such~~ *the* violation.

22 SEC. 11. Section 1248.1 of the Health and Safety Code is
23 amended to read:

24 1248.1. No association, corporation, firm, partnership, or
25 person shall operate, manage, conduct, or maintain an outpatient
26 setting in this state, unless the setting is one of the following:

27 (a) An ambulatory surgical center that is certified to
28 participate in the Medicare program under Title XVIII (42 U.S.C.
29 Sec. 1395 et seq.) of the federal Social Security Act.

30 (b) Any clinic conducted, maintained, or operated by a
31 federally recognized Indian tribe or tribal organization, as
32 defined in Section 450 or 1601 of Title 25 of the United States
33 Code, and located on land recognized as tribal land by the federal
34 government.

35 (c) Any clinic directly conducted, maintained, or operated by
36 the United States or by any of its departments, officers, or
37 agencies.

38 (d) Any primary care clinic licensed under subdivision (a) ~~and~~
39 ~~any surgical clinic licensed under subdivision (b) of Section~~
40 1204.

1 (e) Any health facility licensed as a general acute care
2 hospital under Chapter 2 (commencing with Section 1250).

3 (f) Any outpatient setting to the extent that it is used by a
4 dentist or physician and surgeon in compliance with Article 2.7
5 (commencing with Section 1646) or Article 2.8 (commencing
6 with Section 1647) of Chapter 4 of Division 2 of the Business
7 and Professions Code.

8 (g) An outpatient setting accredited by an accreditation
9 agency approved by the division pursuant to this chapter.

10 (h) A setting, including, but not limited to, a mobile van, in
11 which equipment is used to treat patients admitted to a facility
12 described in subdivision (a), (d), or (e), and in which the
13 procedures performed are staffed by the medical staff of, or other
14 healthcare practitioners with clinical privileges at, the facility and
15 are subject to the peer review process of the facility but which
16 setting is not a part of a facility described in subdivision (a), (d),
17 or (e).

18 Nothing in this section shall relieve an association, corporation,
19 firm, partnership, or person from complying with all other
20 provisions of law that are otherwise applicable.

21 SEC. 12. No reimbursement is required by this act pursuant
22 to Section 6 of Article XIII B of the California Constitution
23 because the only costs that may be incurred by a local agency or
24 school district will be incurred because this act creates a new
25 crime or infraction, eliminates a crime or infraction, or changes
26 the penalty for a crime or infraction, within the meaning of
27 Section 17556 of the Government Code, or changes the
28 definition of a crime within the meaning of Section 6 of Article
29 XIII B of the California Constitution.